

Plymouth Printing Co., Inc. and Graphic Communications Local Union 612M of the Graphic Communications International Union, AFL-CIO. Case 22-CA-18296

September 30, 1992

DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

Upon a charge filed by the Union, Graphic Communications Local Union 612M of the Graphic Communications International Union, AFL-CIO, on February 25, 1992, the General Counsel of the National Labor Relations Board issued a complaint on May 28, 1992, against Plymouth Printing Co., Inc., the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent has failed to file a timely answer.

On July 31, 1992, the General Counsel filed a Motion for Summary Judgment. On August 5, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the General Counsel's motion should not be granted. On August 11, 1992, the Board issued an order correcting the Notice to Show Cause. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all the allegations in the complaint shall be considered to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Regional attorney, by letter dated June 15, 1992, notified the Respondent that unless an answer to the complaint was received by June 22, 1992, a Motion for Default Judgment would be filed. No answer was filed by that date. On July 6, 1992, 14 days after the extended deadline, the Respondent filed a letter, presumably in answer to the complaint. The Respondent does not deny that it refused to remit union dues deducted from employees' pay, but contends that its actions were necessary in order to satisfy a debt allegedly owed to it by the Union. The Respondent proffered no explanation for its failure to file a timely answer.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation, engages in the business of commercial printing at its facility in Cranford, New Jersey, where in the 12 months preceding the complaint it derived gross revenues in excess of \$50,000 from the sale and shipment of its products directly to customers located outside the State of New Jersey. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The following employees of the Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time skilled journey person I, journey person II, apprentices I, apprentices II, auxiliary personnel, shippers and drivers, semi-skilled and general workers employed by the Employer, but excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act.

Since about 1989, and at all times material, the Union, by virtue of Section 9(a) of the Act, has been and is the designated collective-bargaining representative of the employees in the appropriate unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment, and has been recognized as the representative by the Respondent. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective by its terms for the period of November 1, 1991, to April 30, 1995.

Since about January 31, 1992, the Respondent, without the consent of the Union, has failed to continue in full force and effect all the terms and conditions of the collective-bargaining agreement by failing to abide by article XXV of the agreement. In particular, the Respondent has unilaterally refused to remit to the Union, as contractually required, the dues it has deducted from the paychecks of unit employees who have authorized it to do so. This relates to terms and conditions of employment and is a mandatory subject of bargaining.

We find that the Respondent's failure to abide by the terms of the collective-bargaining agreement, as in-

licated above, constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By failing and refusing to remit the authorized union dues deducted from employee pay to the Union, as required by article XXV of the 1991-1995 collective-bargaining agreement, the Respondent has refused to bargain with the Union over mandatory subjects of bargaining, and has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. We shall order the Respondent to remit to the Union those authorized dues withheld from employees' pay, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

ORDER

The National Labor Relations Board orders that the Respondent, Plymouth Printing Co., Inc., Cranford, New Jersey, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with Graphic Communications Local Union 612M of the Graphic Communications International Union, AFL-CIO as the exclusive bargaining representative of the employees in the bargaining unit. The unit is:

All full-time and regular part-time skilled journey person I, journey person II, apprentices I, apprentices II, auxiliary personnel, shippers and drivers, semi-skilled and general workers employed by the Employer, but excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act.

(b) Failing and refusing to adhere to the terms of its collective-bargaining agreement with the Union by failing and refusing to remit to the Union the authorized union dues withheld from employees' pay as the contract requires.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Abide by the terms of the collective-bargaining agreement with the Union.

(b) Remit to the Union authorized dues deducted from the employees' pay, with interest, in the manner set forth in the remedy section of this decision.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, time-cards, personnel records and reports, and all other records necessary to analyze the amounts due under the terms of this Order.

(d) Post at its facility in Cranford, New Jersey, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 22, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with Graphic Communications Local Union 612M of the Graphic Communications International Union, AFL-CIO as the exclusive bargaining representative of the employees in the bargaining unit. The unit is:

All full-time and regular part-time skilled journey person I, journey person II, apprentices I, apprentices II, auxiliary personnel, shippers and drivers, semi-skilled and general workers employed by the Employer, but excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act.

WE WILL NOT fail and refuse to adhere to the terms of our collective-bargaining agreement with the Union by failing to remit to the Union the authorized union dues withheld from employees' pay as the contract requires.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL adhere to the terms of our collective-bargaining agreement with the Union.

WE WILL remit to the Union, with interest, the authorized union dues deducted from employees' pay.

PLYMOUTH PRINTING CO., INC.